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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,425	04/04/2006	Hans Lindh	P/1830-19	7893
2352 7590 12/28/2007 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			EXAMINER CHIN, PAUL T	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,425	Applicant(s) LINDH, HANS	
	Examiner PAUL T. CHIN	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "21" (first section). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, applicant describes in the 7th paragraph of the publication (US 2007/012385):

....the cage is also designed to hold the ball in the first section in a second cage orientation in which the cage has been rotated through 180 degrees about said axis from the first cage orientation.....

Claim 4 recites ".....the cage roof is operable to retain golf ball in a position in which the center of gravity of the golf ball lies beneath the longitudinal axis of the elongated handle when the cage is rotated through an angle of 180 degrees about the longitudinal axis of the elongated handle". It is not clearly understood as to how "the cage is rotated through an angle of 180 degrees about the longitudinal axis of the elongated handle". Note that the tool of instant application could be applied from a first cage position as shown in figure 5 to a second cage position as shown in figure 1, and the cage has been rotated less than 90 degree. If the cage (20) is rotated about 180 degree, as applicant intended to use, the tool is not capable of retrieving a golf ball.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, and 4, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Zimmers (2,738,214) (see IDS).

Zimmers (2,738,214) discloses a golf ball retrieval device (see Exhibits A,B) comprising an elongated handle (12,14), a cage having a rear end facing the elongated handle (12) and a front end facing away from the elongated handle (12), and a roof (see Figs. 2,3, and 4) extending from the rear end to the front end, a first section (22,22,28,28) located at the rear end of the cage, a second section (16,16) located at the front end wherein the first cage section has a first opening (see Fig. 3) and the second opening located the opposite of the rear end. Note that the spaced apart outwardly extending fingers (16,16)

and a roof (28) defines a first opening, which has a greater diameter than a golf ball, (see col. 2, lines 19-26) and the extending fingers (16,16) and a roof (28) defines a second opening (Figs. 1,2,3,8, and 10), which has a lesser diameter than a golf ball (see col. 2, lines 13-19). Exhibits A and B teaches a substantially wedge shape roof.

Exhibit A

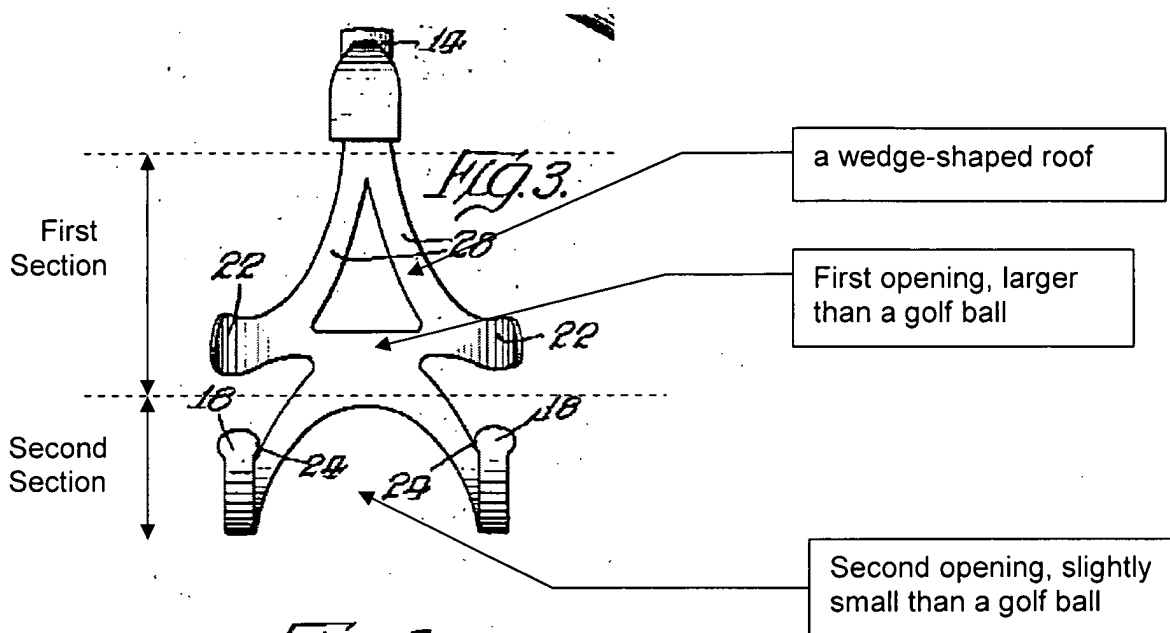
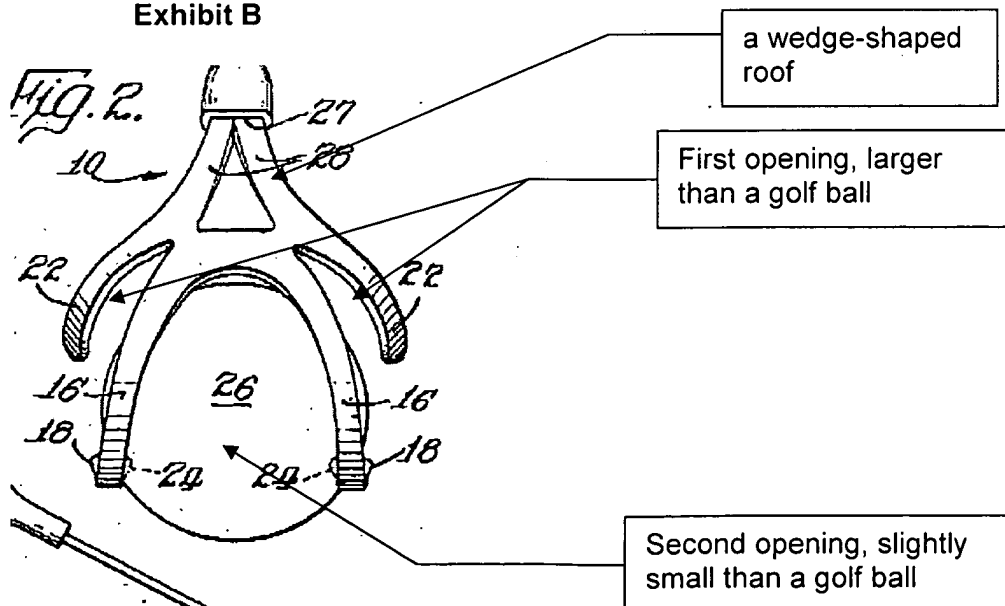


Exhibit B



Also note that Zimmers's golf ball retrieving device is capable of free receiving a golf ball through the first opening (between the fingers 22,22) and retain the golf ball within the second opening to form a ball seating (18,18) wherein the second opening is capable of being enlarged if pressed by a user.

Re claim 3, Exhibit B substantially teaches a plane defined by an edge of the second opening defined an angle with respect to a longitudinal axis of the handle (12).

Re claim 4, Zimmers's golf ball retrieving device, as best understood, teaches the ball seating (28,28) and the roof being capable of positioning a center of gravity of the ball (29) (see Figs. 1 and 2) beneath the longitudinal axis of the handle (12).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

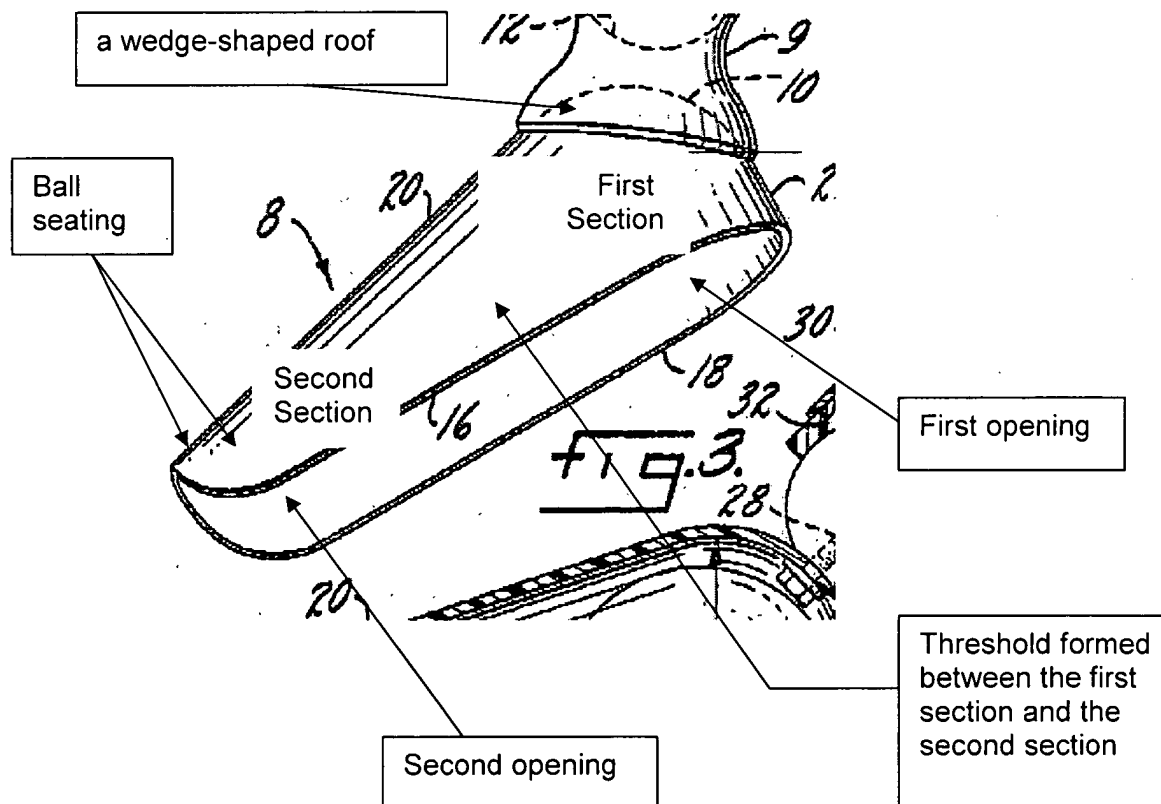
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins (3,265,430).

Jenkins (3,265,430) discloses a golf ball retrieval device comprising an elongated handle (13,15), a cage (see Exhibit C) having a rear end facing the elongated handle and a front end facing away from the elongated handle, and a roof (see Figs. 1-3) extending from the rear end to the front end, a first section (see Exhibit C) located at the rear end of the cage, a second section located at the front end wherein the first cage section has a first opening (see Exhibit C) and the second opening located the opposite of the rear end. Note that the spaced apart outwardly extending walls (16,18) and a roof (20) defines a

first opening, and the frontal extending walls (16,18) and a roof (20) defines a second opening as shown below. Jenkins's golf ball retrieval device (3,265,430) does not clearly teach the dimensional structure of the first and second openings to capture a golf ball. However, Jenkins's golf ball retrieval device (3,265,430) teaches that the upper portion of the opposed walls of the first opening is substantially smaller than the golf ball (col. 2, lines 3-8, and Fig. 3) and figures 4 and 5 also teach that the opposed and spaced apart walls (38,40) has a distance being smaller than a golf ball (col. 2, lines 22-47).

Exhibit C



Thus, it would have been obvious to those skilled in the art to provide a structure dimension of a second opening to be slightly small than a diameter of a golf ball and also to provide a first

opening to be slightly larger than the golf ball on the Jenkins's golf ball retrieval so that a golfer could pull the retrieving tool towards himself or herself to retrieve a golf ball.

Re claim 2, Exhibit C shows a threshold formed between the first section and the second section to prevent the ball from rolling from the ball seating.

Re claims 3 and 5, Exhibit C teaches a plane defined by an edge of the second opening defined an angle with respect to the longitudinal axis of the handle.

Re claim 4, the ball seating (See Exhibit C) and the cage roof (20) are capable being positioned a center of gravity of the ball beneath the longitudinal axis of the elongated handle (15) because the distal end of the handle, a ball or sphere, is designed to be freely rotatable at a socket joint (12).

Response to Arguments

8. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kerr (US 2005/0179271) shows a golf ball retrieving device comprising a handle, a cage having a first opening located near the end of the handle to allow a golf ball to free roll between the outwardly extending fingers, a second opening located the opposite of the first opening to tightly grip a golf ball.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

Application/Control Number:
10/574,425
Art Unit: 3652

Page 8

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SUPERVISORY PATENT EXAMINER